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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/879,983	06/14/2001	Isaac K. Elliott	VON96046C1	6036

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EXAMINER	
PHAN, MAN U	
ART UNIT	PAPER NUMBER
2616	

NOTIFICATION DATE	DELIVERY MODE
06/13/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@verizon.com

Office Action Summary	Application No.	Applicant(s)	
	09/879,983	ELLIOTT ET AL.	
	Examiner	Art Unit	
	Man Phan	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 March 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Response to Amendment and Argument

1. This communication is in response to applicant's 3/27/2007 Amendment in the application of Elliott et al. for a "System and method for providing requested quality of service in a hybrid network" filed 06/14/2001. This application is a continuation of US Application 08/751,917 filed November 18, 1996 is now US Patent# 6,335,927. The amendment and response has been entered and made of record. Claims 1-11 are pending in the application.

2. Applicant's remarks and argument to the rejected claims are insufficient to distinguish the claimed invention from the cited prior arts or overcome the rejection of said claims under 35 U.S.C. 103 as discussed below. Applicant's argument with respect to the pending claims have been fully considered, but they are not persuasive for at least the following reasons.

3. In response to Applicant's argument that the reference does not teach or reasonably suggest the functionality upon which the Examiner relies for the rejection. The Examiner first emphasizes for the record that the claims employ a broader in scope than the Applicant's disclosure in all aspects. In addition, the Applicant has not argued any narrower interpretation of the claim limitations, nor amended the claims significantly enough to construe a narrower meaning to the limitations. Since the claims breadth allows multiple interpretations and meanings, which are broader than Applicant's disclosure, the Examiner is required to interpret the claim limitations in terms of their broadest reasonable interpretations while determining patentability of the disclosed invention. See MPEP 2111. In other words, the claims must be

given their broadest reasonable interpretation consistent with the specification and the interpretation that those skilled in the art would reach. See *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000), *In re Cortright*, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999), and *In re American Academy of Science Tech Center*, 2004 WL 1067528 (Fed. Cir. May 13, 2004). Any term that is not clearly defined in the specification must be given its plain meaning as understood by one of ordinary skill in the art. See MPEP 2111.01. See also *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), *Sunrace Roots Enter. Co. v. SRAM Corp.*, 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir. 2003), *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d 1132, 1136 (Fed. Cir. 2003). The interpretation of the claims by their broadest reasonable interpretation reduces the possibility that, once the claims are issued, the claims are interpreted more broadly than justified. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). Also, limitations appearing in the specification but not recited in the claim are not read into the claim. See *In re Van Geuns, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993)*. Therefore, the failure to significantly narrow definition or scope of the claims and supply arguments commensurate in scope with the claims implies the Applicant intends broad interpretation be given to the claims. The Examiner has interpreted the claims in parallel to the Applicant in the response and reiterates the need for the Applicant to distinctly define the claimed invention.

4. Applicant's argument with respect to the rejected claim 1 (remarks, pages 4, first paragraph) that the cited references fail to teach or suggest "*a hybrid network that includes a circuit switched network and a packet switched network*". However, recitation "*circuit switched*

network and a packet switched network" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See In re Hirao, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and Kropa v. Robie, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

5. It should be noted that a hybrid network is a combination of two or more individual networks, which for example are formed by combining a convergent voice-data network with a conventional circuit-oriented voice network. One example of a hybrid network combines an IS2000 radio access network providing voice and packet data services with a data only network, such as an IS-856-A High Rate Packet Data (HRPD) access network, providing high rate packet data services. While operating in the packet switched network, the mobile station may request circuit services notifications through the packet data network. A mobile switching center (MSC) in the circuit switched network stores an indication that the mobile station is operating within the packet switched network and sends circuit services notifications to the mobile station via the packet switched network. The MSC sends event notifications to the packet switched network responsive to predetermined events, such as a presence event or a power down event, indicating a change in the status of the mobile station. The packet switched network uses the event notifications to better manage network resources. The development of Voice over IP (VoIP) technology has resulted in the MSC being re-designed to handle packet-switched voice traffic along with existing circuit-switched traffic. This new architecture is called a soft switch network.

The media gateway (MGW) itself has the ability to accept both packet and circuit switched traffic and convert one to the other, under the control of the soft switch. It is thus the IP networks to carry both circuit switched and packet switched traffic. Applicant's attention is directed to Figs. 1-2 of Civanlar for conducting a voice communication through a hybrid network which includes a packet internetwork, such as the Internet, connected to a circuit switched telephone network. Thus, a hybrid network including both a circuit switched telephone network (PSTN) and an Internet-based packet voice network (Internet).

Since no substantial amendments have been made and the Applicant's arguments are not persuasive, the claims are drawn to the same invention and the text of the prior art rejection can be found in the previous Office Action. Therefore, the Examiner maintains that the references cited and applied in the last office actions for the rejection of the claims are maintained in this office action.

Claim Rejections - 35 USC ' 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims

under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 1038 and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 1-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Civanlar et al. (US#6,298,120) in view of Andersen et al. (US#5,674,003).

Regarding claims 10-11, Civanlar et al. (US#6,298,120) and Andersen et al. (US#5,674,003) disclose a novel system and method for responding to requests for quality of services and reserving the resources to provide the requested QoS in a hybrid internet/ telephone switch, according to the essential features of the claims. Civanlar et al. (US#6,298,120) disclose in Fig. 3 a flow chart illustrated the steps performed by a client to complete a transaction over the Internet which requires intelligent processing. First, in step 300, the client initiates communication with the agent that functions in operative cooperation with the Internet (*media communication over a hybrid network*). Next, in step 301, the client specifies to the agent one or more desired service attributes which require intelligent processing. For purposes of illustration service attributes may be classified into one of three categories: end-point attributes, path attributes, and call attributes. End-point attributes include such attributes as the name and network address of the destination station, the type of file transmission that is desired (e.g., one-way transmission for file retrieval only or two-way file transfer), and the media to be employed

(e.g., audio, text, video, etc.). Path attributes specify the communication medium to be employed (e.g., telephone network, ATM, frame relay, etc.) and the quality of service that is desired (*resources for requested QoS*). Call attributes include billing preferences (e.g. specifying the party who will pay for the call), the time and date at which the call is to be initiated, call authentication requirements, and whether proxy services will be required to perform a task such as downloading an application, for example (Col. 4, lines 36 plus). The agent establishes the appropriate data path in step 302 upon receiving a call request having specified call attributes. The agent communicates with various switches located in the networks of the originating client and the destination client to properly established the communication session (*allocating necessary resources to provide the requested QoS*). The agent may employ other end-point stations to initiate the call set-up, or alternatively, the agent may designate a proxy to connect originating and destination stations in those situations where communication formats between the stations are not compatible. The agent performs these functions by maintaining an updated database that includes the identification of end-point stations having the capability of providing special service attributes, a list of the various service attributes available to the agent, and available data paths. Finally, in step 303, after the connection has been established in accordance with the service attributes requested by the client, the client communicates with the destination station in a conventional manner (Col. 4, lines 58 plus).

In the same field of endeavor, Andersen et al. (US#5,674,003) teaches a method and system for media communication between remote computer system interconnected by way of a connection oriented telephony network, in which a socket based transport interface can be utilized to establish communication channels between remote computers over a connection

oriented telephony network (*hybrid network communications*). A plurality of sockets are created at each endpoint, one for each type of data stream to be transferred between the computers. The sockets are formed into a group to indicate to the computer transport service provider that the data streams from the sockets can utilize the same telephony connection, and a quality-of-service specification is associated with the socket group so that the telephony connection can be established according to the requirements of the socket group (*determining resources for requested QoS*). If a new data stream needs to be transmitted and there is already a telephony connection established, a new socket is created and added to the existing socket group. If the newly added socket significantly affects the quality-of-service requirements of the socket group, a new quality-of-service may be negotiated with the telephony network (See Fig. 5; Col. 2, lines 24 plus and Col. 16, lines 38 plus).

Regarding claims 1-9, they are method claims corresponding to the system claims 10-11 above. Therefore, claims 1-9 are analyzed and rejected as previously discussed with respect to claims 10-11.

One skilled in the art would have recognized the need for effectively and efficiently providing requested quality of service routing in networks, and would have applied Andersen's novel use of logical networks and a method for setting up a virtual connection to transfer packets through the router apparatus into Civanlar' quality of service parameters in hybrid network communications. Therefore, It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to apply Andersen et al.'s mechanism for accessing unique features of telephony networks from a protocol-independent data transport interface into Civanlar et al.'s intelligent processing for establishing communication over the internet with the

motivation being to provide a system and method for providing requested quality of service in a hybrid network.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Eastep et al. (US#6,731,625) is cited to show the system, method and article of manufacture for a call back architecture in a hybrid network with support for Internet telephony.

The Elliott (US#7,145,898) is cited to show the system, method and article of manufacture for selecting a gateway of a hybrid communication system architecture.

The Krisnaswamy et al. (US#5,999,525) is cited to show the method for video telephony over a hybrid network.

The Turock (US#6,243,373) is cited to show the method and apparatus for implementing a computer network/internet telephone system.

The Gawlick et al. (US#6,175,870) is cited to show the method of admission control and routing of virtual circuits.

The Smyk (US#6,597,686) is cited to show the apparatus and method for internet telephony routing.

The Baum et al. (US#6400,707) is cited to show the real time firewall security.

The Mikurak (US#2006/0178918) is cited to show the technology sharing during demand and supply planning in a network based supply chain environment.

The Jones et al. (US5,903,558) is cited to show the method and system for maintaining a guaranteed QoS data transfers within a communications system.

10. **THIS ACTION THIS ACTION IS MADE FINAL.** See MPEP ' 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Phan whose telephone number is (571) 272-3149. The examiner can normally be reached on Mon - Fri from 6:00 to 3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin, can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2600.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have any questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at toll free 1-866-217-9197.

Mphan

June 06, 2007

MAN U. PHAN
PRIMARY EXAMINER